Supreme Court, U.S.
FILED
941434 FEB 24 1995
OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

FRANK J. CAMOSCIO,

PETITIONER,

v.

CLERK-MAGISTRATE DANIEL F. POKASKI,

AND

JUDITH B. PRENDERGAST,

RESPONDENTS.

ON WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT

PETITION FOR WRIT OF CERTIORARI

FRANK J. CAMOSCIO
252 HANOVER STREET
BOSTON, MASSACHUSETTS 02113
(617) 720-2849
COUNSEL OF RECORD

ATTORNEY FOR PETITIONER
PRO SE

3 cp

QUESTIONS PRESENTED

A. Can the Court bar the Petitioner from filing suit if this suit is properly framed and it is the Petitioner's right to file under the Seventh Amendment of the United States Constitution to settle matters in a Court of Law and the Fourteenth Amendment of the United States Constitution to have equal access to the Courts?

PARTIES TO THE CASE

FRANK J. CAMOSCIO
252 Hanover Street
Boston, Massachusetts 02113

Petitioner,

v.

CLERK-MAGISTRATE DANIEL F. POKASKI,

and

JUDITH B. PRENDERGAST.

Represented by:

ROBERT J. MUNNELLY, JR.
Assistant Attorney General
One Ashburton Place
Boston, Massachusetts 02109

Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

The Petitioner, Frank J. Camoscio respectfully prays that the Writ of Certiorari issued to review judgment and opinion of the Appeals Court for the First Circuit entered December 2, 1994.

OPINION BELOW

The Federal Court of Appeals came down with their decision on December 2, 1994. See Appendix A.

The Lower Court issued 2 rulings one from Judge Reginald C. Lindsay, United States District Judge, on August 12, 1994. The Petitioner was trying to file a complaint for civil rights violations against him. Judge Lindsay pointed out that one of the parties was protected by Judicial Immunity. The reason the Petitioner had to get the Court's permission was a previous verbal order by Judge Young which violated local rules but the Court in Boston was upholding this decision.

The Petitioner filed an Amended Verified Complaint which Judge Young heard and refused to authorize the Petitioner the right to be heard. No

reason was given. See Appendix B. The Amended Verified Complaint is found in Appendix C.

The Petitioner filed an Amended Verified Complaint which clearly demonstrated that Clerk-Magistrate Daniel F. Pokaski denied Camoscio access to his criminal court records making it impossible for him to work on his criminal conviction. The complaint also stated that his probation officer trespassed on his property and was ordering him not to work on his appeal and she would continue to harass him until he admitted he was guilty because Judith B. Prendergast bosses had instructed her to do so.

These are clear violations of the Petitioner's Civil Rights and the law is specific that this matter must be settled in a court of law as guaranteed by the Seventh Amendment of

the United States Constitution which is based on the Magna Carta, that disputes are settled by a trial before your peers.

The Petitioner states that he did seek Judicial Authorization that is why each Judge reviewed his complaint and came down with a written decision. Judge Lindsay stated Judge Greenberg had judicial immunity. The complaint was amended. Judge Young found no defect in the complaint but stated that the request for leave to file the complaint is denied. See Appendix B paragraph number 3.

The Court failed to cite any immunities or reasons for this complaint to be denied except Judge Young wanted a signature of counsel. This sentence is found in paragraph 2 of Appendix B, Judge Young's decision. The only issue is does a citizen of the United States

have a right to represent himself if the complaint is valid.

JURISDICTION

The Petitioner envokes the Jurisdiction of this Court under 62 Stat. 928, 28 U.S.C. § 1254. The Petitioner also cites Rule 13 of the Rules of the Supreme Court stating that the Petition must be filed within 90 days of the last decision, which was December 2, 1994. See Appendix A.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Petitioner invokes the Jurisdiction of this Court to correct the lower court decision and reverse judgement under the Fourteenth Amendment of the United States Constitution.

The Petitioner cites the Fourteenth Amendment, Section 1.

"Sect. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor

deny to any person within its jurisdiction the equal protection of the laws."

The Petitioner cites the Seventh Amendment of the United States Constitution.

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law."

STATEMENT OF THE FACTS

This case has one issue for this Court to answer. Does every citizen have the right to have equal access to the courts to settle differences.

Judge Young in his lower court decision stated that the Petitioner could file his Amended Verified Complaint if he obtained signature of counsel to file such complaint. See Order dated August 23, 1994, paragraph number 2. Quote:

"This is the fourteenth time that plaintiff Frank J. Camoscio has sought relief from this court. On November 2, 1992, an order was issued enjoining the plaintiff "from filing any papers in this Court without the aid and signature of counsel unless or until this Court specifically authorizes the filing of such claims."

Transcript of Motion Hearing, Camoscio v. Commonwealth, C.A. 92-11530-Y, p. 8, ln. 18-24.

The Judge further denies the Petitioner's request for leave to file the Amended Verified Complaint.

This action clearly violates the Fourteenth Amendment of the United States Constitution which guarantees everyone equal access to the Courts, and the Seventh Amendment which guarantees a trial. No defect or reason is given by Judge Young to deny the Amended Verified Complaint, unlike Judge Lindsay who denied the complaint on the grounds that one of the parties had judicial immunity.

REASONS FOR GRANTING THE WRIT

A. JUDGE YOUNG IN THE LOWER COURT ERRED BY DENYING THE PETITIONER EQUAL ACCESS TO THE COURT BY REFUSING HIM THE RIGHT TO FILE A COMPLAINT UNLESS FILED BY AN ATTORNEY.

The Fourteenth Amendment of the United States Constitution guarantees equal access to the Courts and the Seventh Amendment of the United States Constitution guarantees a right to a trial to settle matters and disputes. These Constitutional Amendments are clearly violated because Judge Young refused the Petitioner the right to file an Amended Verified Complaint. The Court would accept this complaint from an attorney. See paragraph number 2 of Judge Youngs decision, Appen-

dix B.

CONCLUSION

The Petitioner, has demonstrated that the Fourteenth and Seventh Amendments of the United States Constitution were violated by Judge Young's decision, dated August 23, 1994. Either the Court is accessable and equal for all or the Fourteenth Amendment of the United States Constitution has become meaningless words.

The Constitution is specific and the Petitioner is equal under the eyes of the law. Just as this Court accepts arguments from the Petitioner as if he were a learned attorney proves that this Court honors the Fourteenth Amendment of the United States Constitution. The Supreme Court must overturn and sternly chastise the Judges involved for breaking the Constitution.

I hereby certify that all of the above statements are true and are made under the pains and penalties of perjury.

Respectfully submitted,

Frank J. Camoscio

Frank J. Camoscio
Pro Se
Counsel of Record
for Petitioner

252 Hanover Street
Boston, Massachusetts 02113
(617) 720-2849

Attorney for Petitioner

Dated: February 22, 1995

Richard F. LaMonica
Notary Public
My Commission Expires Aug. 16, 1996

APPENDIX

UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT

No. 94-1964

FRANK J. CAMOSCIO,

Plaintiff, Appellant,

v.

DANIEL POKASKI, MEL L. GREENBERG,

AND

JUDITH B. PRENDERGAST,

Defendants, Appellees.

Before

Torruella, Chief Judge,

Boudin and Stahl, Circuit Judges.

ORDER OF COURT

Entered December 2, 1994

The appellees' motion for summary affirmance is allowed. See

Local Rule 27.1.

By the Court:

Clerk.

[cc: Messrs. Camoscio, Pokaski, Greenberg, Munnelly, and Ms. Prendergast]

Signed by: Francis P. Scigliano, Clerk.

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

FRANK J. CAMOSCIO Plaintiff, v. CLERK-MAGISTRATE DANIEL F. POKASKI and JUDITH B. PRENDERGAST Defendants.	)	DOCKETED M.B.D. No. 94-10485

PROCEDURAL ORDER

Frank J. Camoscio has tendered for filing his pro se civil rights action against the defendants. Plaintiff seeks authorization to file his complaint against a probation officer and clerk-magistrate.

This is the fourteenth time that plaintiff Frank J. Camoscio has sought relief from this court. On November 2,

1992, an order was issued enjoining the plaintiff "from filing any papers in this Court without the aid and signature of counsel unless or until this Court specifically authorizes the filing of such claims." Transcript of Motion Hearing, Camoscio v. Commonwealth, C.A. No. 92-11530-Y, p.8, ln. 18-24.

Based upon my review of plaintiff's "Amended Verified Complaint," it is ORDERED that plaintiff's request for leave to file the complaint be DENIED.

SO ORDERED.

Dated at Boston, Massachusetts, this 23rd day of August, 1994.

WILLIAM G. YOUNG
UNITED STATES DISTRICT JUDGE

Signed by: William G. Young,

United States District Judge.

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

M.B.D. NO. 94-10485-RCL

FRANK J. CAMOSCIO,

Plaintiff,

vs.

CLERK-MAGISTRATE DANIEL F. POKASKI,

and

JUDITH B. PRENDERGAST,

Defendants.

AMENDED VERIFIED COMPLAINT

1. The Plaintiff is Frank J. Camoscio whose address is 252 Hanover Street, Boston, Massachusetts 02113.

2. The Defendant is Daniel F. Pokaski, Clerk-Magistrate, 712 Pemberton

Square, New Court House, Boston, Massachusetts 02108.

3. The Defendant is Judith B. Prendergast, Probation Officer, 40 Thorndike Street, East Cambridge, Massachusetts 02141.

4. This complaint is filed under Title 42 § 1983 of U.S.C.A. The Defendants' have intentionally conspired with others to deny the Plaintiff redress, due process and equal access to the Court under the First and Fourteenth Amendments of the United States Constitution.

5. Clerk-Magistrate, Daniel F. Pokaski has denied the Plaintiff access to the Court Record both Pre and Post trial. This act was carried out by his agents.

6. The Plaintiff cannot file a proper appeal complying with the Rules of Appellate Procedure because the Plaintiff has been denied access to the Lower Court Record and Docket Sheet. Under Massachusetts Rules of Appellate Procedure it is the duty of the Plaintiff to make an appendix and cite from the brief to the appendix the appropriate sections with supporting arguments. Please see Massachusetts Rules of Appellate Procedure, Rules 16 and 17.

7. The Plaintiff asks this Honorable Court to award damages of One Million Dollars a day for each day the Plaintiff has been denied access to the Lower Court Record.

8. The Plaintiff has been ORDERED by his Probation Officer not to work

on his case at the present time. She stated she will continue to harass him until he stops working on his case and admits that he is guilty. She also stated that her higher ups instructed her to do this.

9. The Probation Officer even trespassed and tried to search the Plaintiff's home. A complaint was filed with the Newton Police and the Probation Officer fled the area because of her wrong-doing. See attached copy of Newton Police Complaint.

10. The Plaintiff asks for One Million Dollars a day in damages for each day the Probation Officer has instructed him not to work on his case because it violates equal access to the courts.

11. The Plaintiff prays for One Million Dollars in damages for illegal entry and trespassing on his property.

PRAYERS

1. The Plaintiff prays for One Million Dollars a day in damages from Clerk-Magistrate Daniel F. Pokaski for withholding the Lower Court Record.

2. The Plaintiff prays for One Million Dollars a day in damages from Judith B. Prendergast for each day that he was instructed not to work on his case.

3. The Plaintiff prays for One Million Dollars in damages for the illegal

search and trespassing by Judith B. Prendergast.

I hereby certify that all of the above statements are true and are made under the pains and penalties of perjury.

Frank J. Camoscio
252 Hanover Street
Boston, Massachusetts 02113
(617) 720-2849

Counsel of Record
Pro Se

Dated: August 22, 1994

ATTACHMENTS

1. Copy of Newton Police Report.

Signed by: Frank J. Camoscio.

COMPLAINT REPORT

POLICE DEPARTMENT CC: EXTRA COPY

NEWTON, MASSACHUSETTS

CRIME/SERVICE NO. 94-20565

Tuesday 1240 HRS 08/16/94

LOCATION: 33 PLAINFIELD ST

COMP: FRANK CAMOSCIO

33 PLAINFIELD ST

NEWTON MA 332-7756

INCIDENTS: INVESTIGATION

REPORTING OFFICER: RUGGIERO R

UNITS: 498

JUDITH PRENDERGAST, PROBATION OFFICER - MIDDLESEX SUPERIOR COURT, CAME TO HOUSE TO SEARCH THE PREMISES SHE DIDN'T HAVE A WARRANT. SHE'S BEEN HIS P.O. FOR 2 1/2 MONTHS HE CALLS HER EVERY 3RD MONDAY AND SEES HER EVERY 3RD TUESDAY. MR. CAMOSCIO

HAD HIS SON FRANCIS AND FRIEND ANTHONY FOR WITNESSES.

SHE SAID YOU'RE IN VIOLATION OF PROBATION AND STARTED YELLING. HE WENT TO CALL THE POLICE AND SHE LEFT.

I ADVISED MR. CAMOSCIO TO GO TO NEWTON DISTRICT COURT, MR. CAMOSCIO SHOWED ME JOB DESCRIPTION AND LATEST COURT RULINGS CONCERNING PROBATION OFFICERS, SEARCHES, ETC.